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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/284,024 04/06/99 DELIUS

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EXAMINER

HON, S

ART UNIT

PAPER NUMBER

1772

DATE MAILED:

01/12/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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Office Action Summary

Application No.	Applicant(s)	
09/284,024	DELIUS, ULRICH	
Examiner	Art Unit	
Sow-Fun Hon	1772	

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/08/00
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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DETAILED ACTION

Response to Amendment

Withdrawn Rejections

1. The 35 U.S.C. 112, 2nd paragraph rejection in Paper # 5, paragraph 2 (mailed 08/01/00) of claims 1-11 has been withdrawn due to Applicant's amendment and clarification in Paper # 6 (filed 11/08/00).
2. The 35 U.S.C. 103(a) rejection in Paper # 5, paragraph 4 (mailed 08/01/00) of claims 1-11 over Korlatzki in view of Frey, has been withdrawn due to Applicant's amendment and clarification in Paper # 6 (filed 11/08/00).

New Rejections

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chacko et al. (US Patent 4,970,274) in view of Schumacher (US Patent 4,486,507).

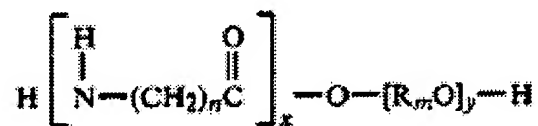
Schumacher has a shrinkable film composed of at least one layer which can be a mixture 85-10 weight percent of an elastomeric component and 15-90 weight percent of a partially aromatic polyamide or partially aromatic copolyamide (abstract). Elastomeric components include block copolymers of polyether segments and polyamides segments, such as those commercially available under the tradename of "Pebax" (column 3, lines 50-55). Schumacher teaches that the films are used for sausage skins (casings) (column 13, lines 8-20) due to its

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ability to shrink-wrap temperature sensitive goods at low temperatures (column 4, lines 31-54).

Schumacher teaches that the film consists of at least one layer of polyamide of the composition and at least one layer of polyolefin (column 7, lines 43-46).

Chacko et al. have a polyamide composition useful to form film. The composition comprises a a block copolymer of a polyamide and a poly(amide-ether) block copolymer with the preferred formula below. The composition comprises from about 70 to about 98 % by weight of a polyamide such as nylon 6, nylon 6,6 nylon 12 and nylon 6,12 (column 2, lines 19-24). Preferred polyether blocks are based on polyethylene glycol and polytetramethylene (polybutylene) glycol (column 2, lines 48-50). Chacko et al. teach the specific use of of Pebax 4011 based on nylon 6 and polyethylene glycol (column 6, lines 31-33). Colorants are minor additives taught to be of value in the composition (column 4, lines 16-19). The formula for the block copolymer is:



where R is an alkyl or substituted alkyl group with from one to about 12 carbons, n is an integer from 2 to 20, and preferably 4 to 12, m is an integer from 2 to 6, preferably from 2 to 4, and x and y are numbers from about 50 to about 30,000 (column 1, lines 50-68 and column 2, lines 1-6).

Chacko et al. teach that the film can be oriented by biaxial forming with methods well known to those skilled in the art, with draw ratios up to 6:1 (column 4, lines 51-55). The

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materials thus produced were thereafter formed into films by extruding a bubble of film (column 9, lines 17-23). Chacko et al. teach that the film conforms easily to a mold form, yet permits stretching of the film to conform to the mold under differential pressure, and further permits ready removability of the film from the mold (column 5, lines 26-35).

It would have been obvious to one of ordinary skill in the art to have used the specific block polyetheramides of Chacko et al. in the invention of Schumacher to obtain a sausage casing that has high shrinkability at relatively low temperatures and ease of processing.

5. Applicant is reminded that even though product by process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. *In re Thorpe*, 227 USPQ 964, 966 (Fed. Cir. 1985).

6. Applicant is also reminded that a particular range has to be shown to be critical, generally by showing that the claimed range achieves unexpected results relative to the prior art range." *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir. 1990). See MPEP § 716.02 - § 716.02(g) for a discussion of criticality and unexpected results.

Response to Arguments

7. Applicant's arguments in Paper # 6 (filed 11/08/00) with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

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Any inquiry concerning this communication should be directed to Sow-Fun Hon whose telephone number is (703)308-3265. The examiner can normally be reached Monday to Friday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's primary examiner, Rena Dye, can be reached on (703)308-4331. The fax phone number for the organization where this application or proceeding is assigned is (703)305-3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

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01/10/01



RENA L. DYE
PRIMARY EXAMINER

Tech Center 1772